IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

Bail Appl..No. 6685 of 2007()

[CRIME NO.67/2007 OF SHOLYUR POLICE STATION]

: PETITIONER/ACCUSED

VELLANGIRI, S/O.KAALI,
CHAVADIYOOR, SHOLAYUR (PO),
MANNARKKAD, PALAKKAD.

BY ADV. SRI.VINOD KUMAR.C

RESPONDENTS:

STATE REPRESENTED BY SI OF POLICE,
SHOLAYUR THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 07/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.6685 of 2007

Dated this the 7th day of November 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations under Section 392 I.P.C. The crux of the allegations against the petitioner is that on 5/10/2007 at about 9 p.m, he trespassed into the residential building of the de facto complainant, an old lady aged about 75 years. She had some cash available with her and the petitioner who also belongs to the same area had allegedly snatched away an amount of Rs.6,000/- from the possession of the de facto complainant. She made a hue and cry. The accused took to his heels. In the meantime, a small pocket book of the petitioner had allegedly fallen at the scene of the crime. The son of the de facto complainant, who rushed to the de facto complainant on hearing her cries, had allegedly seen the petitioner running away from the scene of the crime. F.I statement was lodged only on 10/10/2007. The petitioner is alleged to be the accused in that F.I statement itself. Investigation is in progress. The petitioner has not been arrested so far.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. There is some dispute between the son of the de facto complainant and the petitioner herein. Because of such disputes and animosity arising out of such disputes, false allegations are being raised against the petitioner now. The petitioner is not a stranger to the premises. Even assuming that the pocket book has been recovered, it does not at all indicate the culpability. That pocket book may have been left in the house of the de facto complainant on some earlier occasion, submits the learned counsel for the petitioner.

3. The learned Public Prosecutor stoutly opposes the application. The learned Public Prosecutor submits that all available indications point to the culpability of the petitioner and there are no circumstances in this case which would justify the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. I am satisfied that there are no features in this case which would justify invocation of the extraordinary equitable discretion under

Section 438 Cr.P.C. This is a fit case where the petitioner must appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course.

5. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007